

GENERAL ASSEMBLY OF NORTH CAROLINA



FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 5, 2013
TO: Senators Harrington and Rabon
FROM: Anna Cameron
 Fiscal Research Division
RE: House Bill 817 PCS to 6th Edition

FISCAL IMPACT						
(\$ in millions)						
	<input checked="" type="checkbox"/> Yes		<input type="checkbox"/> No		<input type="checkbox"/> No Estimate Available	
State Impact	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	
HF/HTF Revenues:	0.0	0.0	0.0	0.0	0.0	
HF/HTF Expenditures:	0.0	0.0	0.0	0.0	0.0	
State Positions:	0.0	0.0	0.0	0.0	0.0	
NET STATE IMPACT	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
Local Impact						
Revenues:	(298,254)	(4,976,746)	(2,211,306)	(1,901,514)	(6,391,350)	
Expenditures:	0	0	0	0	0	
NET LOCAL IMPACT	(298,254)	(4,976,746)	(2,211,306)	(1,901,514)	(6,391,350)	
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Transportation						
EFFECTIVE DATE Varies.						
TECHNICAL CONSIDERATIONS: None						

BILL SUMMARY:

Strategic Prioritization Funding Plan for Transportation Investments

Section 1.1(a) enacts a new formula governing use of State transportation construction funding, the "Strategic Prioritization Funding Plan for Transportation Investments". Highway Trust Fund revenues and Federal Aid funds are subject to the new formula, except for listed exemptions. Funds subject to the formula are to be distributed as follows: 40% to Statewide strategic mobility projects, 30% to Regional impact projects, and 30% to Division needs projects. Project types eligible for funds in each category are listed. The criteria to be used by DOT to prioritize each category are specified. A formula variance with readjustments, over a five year period, is specified. Incentives for local funding and tolling are included.

Section 1.1(b), effective July 1, 2019, revises the calculation of the formula variance.

Section 1.2 requires DOT to issue a revised draft TIP by January 1, 2015, reflecting the effect of the new formula.

Secondary Road Changes

Section 2.1 repeals a requirement that \$15 of each vehicle title application fee deposited in the Highway Trust Fund be used for secondary road paving.

Section 2.2(a), effective July 1, 2013 for one year, continues the secondary road construction program in the Highway Fund for one year.

Section 2.2(b), effective July 1, 2014, limits the secondary road program in the Highway Fund to maintenance and improvement.

Section 2.3(a), effective July 1, 2013 for one year, continues the secondary road construction program in the Highway Fund for one year.

Section 2.3(b), effective July 1, 2014, repeals the secondary road construction program in the Highway Fund.

Section 2.4 repeals a provision exempting special appropriations for secondary road construction from statutory allocation formulas.

Section 2.5 creates a secondary road unpaved road paving program in the Highway Fund, distributed based on a DOT Statewide prioritization.

Section 2.6(a), effective July 1, 2013 for one year, continues the secondary road construction program in the Highway Fund for one year.

Section 2.6(b), effective July 1, 2014, repeals the secondary road construction program in the Highway Fund.

Section 2.6(c) continues a requirement that the DOT secondary road maintenance and improvement program be based on a uniformly applicable formula, and clarifies that it does not apply to paving of unpaved roads.

Section 2.6(d) appropriates \$15 million in nonrecurring funds in FY 2013-2014 from the Highway Fund to the secondary road construction program, and appropriates \$12 million in recurring funds in FY 2013-2014 from the Highway Fund for paving unpaved secondary roads.

Section 2.7 repeals county prioritization of unpaved road projects, and reenacts a provision repealed by Section 2.9 of the bill that authorizes paving of a ROW of less than 60 ft, in some cases.

Section 2.8(a), effective July 1, 2013 for one year, revises the statute governing submission of the secondary construction and unpaved road paving program to Boards of County Commissioners.

Section 2.8(b), effective July 1, 2014, revises the statute governing submission of the secondary construction and unpaved road paving program to Boards of County Commissioners to reflect the limitation of the process to only paving unpaved secondary roads, beginning July 1, 2014. In counties where unpaved secondary road paving is programmed for paving, the Department will be required to annually submit a list of roads programmed for paving to the board of county commissioners.

Section 2.9 repeals provisions for use of the Highway Trust Fund allocation to secondary road paving. Part of this repealed statute, authorizing paving of a ROW of less than 60 ft. in some cases, is reenacted in Section 2.7 of the bill. The Highway Trust Fund percentage allocation to secondary road paving is repealed in Section 4.8 of the bill.

State Aid to Municipalities/Powell Bill Changes

Section 3.1 changes the amount of Highway Fund revenues allocated for State aid to municipalities for city streets, known as Powell Bill funds, from 1¾ ¢/gallon of the motor fuels tax to 10.4% of the net amount produced during the fiscal year. Section 4.8 of the bill repeals the Highway Trust Fund supplement to Powell Bill funds.

Section 3.2 is a conforming change repealing a requirement that the Highway Trust Fund supplement for city streets (Powell Bill funds) be distributed in accordance with the Powell Bill statute.

Section 3.3 changes the authorized uses of Powell Bill funds to allow their use for greenways and bikeways.

Section 3.4 authorizes use of Powell Bill funds as a match for federal funds for bicycle and pedestrian improvement projects, as well as for streets, sidewalks, greenways, bikeways, or TIP projects in the municipal limits.

Section 3.5 directs the Department to collect lane mile data from all municipalities eligible for Powell Bill funds, and report to the General Assembly by December 1, 2013.

Conforming Changes

Section 4.1 amends the statute governing the disposition of the Highway Use Tax, to repeal a transfer from the Highway Trust Fund to the Mobility Fund.

Section 4.2 updates a statutory reference in the statute setting out the powers of DOT.

Section 4.3 repeals the 1989 distribution formula for funds expended for Highway Trust Fund Intrastate projects, and specified State and federal aid funds expended under the TIP.

Section 4.4 revises a statutory and project reference in the law authorizing limited use of the Transportation Official Corridor Map Act by the Wilmington MPO.

Section 4.5 amends statute governing local participation in a State transportation project to repeal provisions prohibiting disadvantage to other projects, and limiting DOT funding in exchange for the participation.

Section 4.6 updates a statutory reference in the Turnpike Authority statutes.

Section 4.7 repeals a definition of the Intrastate system.

Section 4.8 repeals expired provisions concerning use of Highway Trust Fund cash balances; modifies the amount of the Highway Trust Fund revenues that may be used for administration from 4.8% to the amount appropriated by law; repeals statutory percentage allocations of Highway Trust Fund revenues to intrastate projects, urban loops, State-aid for city streets (Powell Bill), and secondary road paving; and repeals gap funding for the mid Currituck bridge and Garden Parkway projects.

Section 4.9 repeals an expired limitation on funding obligations of the Highway Trust Fund.

Section 4.10 repeals expired provision concerning use of specified federal funds for the Intrastate system and urban loops.

Section 4.11 repeals description of the Intrastate system.

Section 4.12 repeals the Highway Trust Fund project list.

Section 4.13 repeals requirement that the Highway Trust Fund allocation for urban loops can only be used on urban loops.

Section 4.14 repeals an annual DOT reporting requirement on Highway Trust Fund projects.

Section 4.15 repeals a statute that would have created a maintenance reserve after completion of the Intrastate system.

Sections 4.16, 4.17, and 4.18 repeal the North Carolina Mobility Fund.

Turnpike Authority Changes

Section 5.1 amends the Turnpike Authority's authorized projects list to authorize nine projects: Four of the projects are in existing law: portions of the Triangle Expressway (constituting 3 segment projects) and the Monroe Connector. Any additional project proposal by the Authority would require prior consultation with the Joint Legislative Commission on Governmental Operations. The five remaining authorized projects must meet the following conditions: two must be DOT-ranked top 35 projects, and either may be subject to a partnership agreement. Of the others, one may be subject to a partnership agreement. All five must be included in the local transportation plan, in the current State TIP, and toll projects must also be approved by the affected MPO and RPO.

Section 5.2 authorizes DOT or the Turnpike Authority to enter into up to three partnership agreements with private entities for projects, subject to provisions for revenue sharing, excess revenue, an agreement time limit of 50 years from the beginning of toll operations, reporting to the General Assembly prior to entering into an agreement, and public hearings on applicable toll rates.

Section 5.3 amends the powers of the Turnpike Authority to authorize it to retain and enforce tolls and fees.

Section 5.4 authorizes the Turnpike Authority to use revenues derived from Turnpike Projects for design, reconstruction, rehabilitation, and replacement; for debt service, financing costs, return on

investment, and other authorized uses under a partnership agreement; and for private activity bonds, and federal or State loans.

Section 5.5 authorizes the Turnpike Authority to designate high-occupancy toll (HOT) lanes.

Section 5.6 amends State law concerning collection of tolls on turnpike projects to clarify that tolls on vehicles in the custody of another person are the liability of that person; authorizes private entities to fix and collect pursuant to a partnership agreement with the Turnpike Authority; clarifies the Turnpike's Authority to provide alternate means to accept cash payments for tolls; and provides that toll processing fees cannot exceed the costs of collecting the unpaid toll.

Sections 5.7 directs DOT to strive to expedite the federal environmental impact statement process to define the route for the Southeast Extension of the Triangle Expressway Turnpike Project.

Section 5.8 directs the Joint Legislative Transportation Oversight Committee to closely monitor the progress of the Southeast Extension of the Triangle Expressway Turnpike Project.

Transition Study and Reporting Requirements

Section 6.1 requires DOT to submit reports to the General Assembly on its recommended formulas for ranking projects in the new Strategic Prioritization Plan on August 15, 2013, October 1, 2013, and January 1, 2014.

Section 6.2 requires DOT to submit reports to the General Assembly on its transition to the new Strategic Prioritization Plan on March 1, 2014, and November 1, 2014.

EFFECTIVE DATE:

Section 7.1 provides that the bill generally becomes effective July 1, 2013, except for those sections noted above. The bill is effective only if the General Assembly appropriates funds in the Current Operations Appropriations Act of 2013 to implement the bill.

ASSUMPTIONS AND METHODOLOGY:

Impact to Highway Fund

Section 2.1 through Section 2.9 impact the secondary road construction program and Sections 3.1 and 3.5 impact the Aid to Municipalities/Powell Bill program. As shown in Table One, these sections make appropriation changes to the FY 2013-14 and FY 2014-15 budgets. The appropriations process will determine where to budget the \$8,478,756 in FY 2013-14 and \$28,543,042 in FY 2014-15, which is the difference between the Aid to Municipalities and Secondary Road Construction adjustments.

Table One: Proposed Changes to Highway Fund							
		FY2013-14			FY2014-15		
		Base Budget	HB 817 Proposed Increase/ Decrease	HB 817 Proposed Total	Base Budget	HB 817 Proposed Increase/ Decrease	HB 817 Proposed Total
1	Aid To Municipalities	\$ 88,886,298	\$ 53,407,542	\$ 142,293,840	\$ 88,708,526	\$ 48,165,484	\$ 136,874,010
2	Secondary Road Construction	\$ 88,886,298	\$ (61,886,298)	\$ 27,000,000	\$ 88,708,526	\$ (76,708,526)	\$ 12,000,000

Secondary Road Construction Program:

Currently, secondary roads receive funding for construction from the Highway Fund and Highway Trust Fund. G.S. 136-189.10.(3)(b) in Section 1.1.(a) enables secondary road construction to continue in the “Division” category in the Highway Trust Fund. Per Section 2.6.(d), the construction program is funded at \$15 million non-recurring in the Highway Fund in FY 2013-14.

Unpaved Secondary Road Paving Program:

Currently, the unpaved secondary road paving program is funded from the Highway Fund and Highway Trust Fund within the secondary road construction programs. The Department of Transportation funded this program at \$12 million in the current fiscal year. Per Section 2.6.(d), the unpaved secondary road paving program is funded at \$12 million recurring in FY 2013-14. Section 2.5 prohibits the Highway Trust Fund from being used to fund the paving of unpaved secondary roads beginning in FY 2013-14. Section 2.5 makes permanent the one-year pilot program implemented in Section 24.15 of S.L. 2012-142 to pave unpaved secondary roads based on a State-wide prioritization process.

Aid to Municipalities:

Currently, the Aid to Municipalities program receives 6.5% of funds from the Highway Trust Fund after administration, debt service, Mobility Fund appropriations, and Turnpike Authority gap funds are removed and 1¾ ¢/gallon of motor fuels revenues deposited in the Highway Fund. Section 3.1 eliminates the Highway Trust Fund allocation and attempts to hold municipalities harmless over a five-year period based on the forecasted statutory allocations from the Highway Fund and Highway Trust Fund. Section 3.1 establishes the Aid to Municipalities allocation rate at 10.4% of total motor fuels tax revenues deposited in the Highway Fund.

The amounts shown in the “Local Impact” section of the “Fiscal Impact” chart, located on page 1 of this analysis, represent the difference from the base budget amounts. Therefore, these amounts do not reflect the statutory adjustment amounts that were used to determine the hold harmless at five-year amounts. If current statutory allocations were upheld, Aid to Municipalities allocations would be reduced by \$2,366,421 in FY 2013-14 and \$4,912,107 in FY 2014-15 in the Highway Fund and Highway Trust Fund. Table Two shows the impact of the new allocation rate in Section 3.1 in comparison to the forecasted statutory adjustments in the first two fiscal years.

Table Two: Comparison of Current and Proposed Aid To Municipalities Funding						
	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	Five-Year Difference
Forecasted HF/HTF Statutory Allocations (Current Law)	\$ 142,592,094	\$ 141,850,756	\$ 144,064,537	\$ 147,708,392	\$ 150,420,581	
10.4% HF Motor Fuel Revenues (HB 817)	\$ 142,293,840	\$ 136,874,010	\$ 141,853,231	\$ 149,609,906	\$ 156,811,931	
Difference	\$ (298,254)	\$ (4,976,746)	\$ (2,211,306)	\$ 1,901,514	\$ 6,391,350	\$ 806,558

Impact to Highway Trust Fund

Section 1.1 establishes the Strategic Prioritization Funding Plan for Transportation Investments. G.S. 136-176(b)(1) through G.S. 136-176(b)(4) in Section 4.8 eliminate the statutory formulas that appropriate funding to the Interstate System, Urban Loops, Aid to Municipalities, and Secondary

Road Construction programs. These appropriations are allocated to a new fund that will be established to administer the Transportation Investment Strategy Formula, as set forth in G.S. 136-189.11. Table Three shows the adjustments within the Highway Trust Fund in FY 2013-14 and FY 2014-15 as a result of this bill.

Administration:

G.S. 136-176(b) in Section 4.8 eliminates the statutory formula that appropriates 4.8% of total Highway Trust Fund monies for administration. The Appropriations Act will determine the amount of funds appropriated to administration in FY 2013-14 and FY 2014-15. Reductions or additions to the amount appropriated from administration will impact the amount appropriated to the new fund, as set forth in G.S. 136-189.11.

Table Three: Proposed Changes to Highway Trust Fund							
		FY2013-14			FY2014-15		
			HB 817 Proposed Increase/ Decrease	HB 817 Proposed Total		HB 817 Proposed Increase/ Decrease	HB 817 Proposed Total
	Base Budget				Base Budget		
1 Administration	\$ 53,599,200	UNKNOWN	UNKNOWN		\$ 55,202,400	UNKNOWN	UNKNOWN
Repeals Statutory Amount of 4.8%. Amount to be determined in Budget.							
2 Intrastate System	\$ 515,520,933	\$ (515,520,933)	\$ -		\$ 530,210,557	\$ (530,210,557)	\$ -
3 Urban Loop System	\$ 164,864,838	\$ (164,864,838)	\$ -		\$ 191,571,718	\$ (191,571,718)	\$ -
4 State Secondary System	\$ 78,972,723	\$ (78,972,723)	\$ -		\$ 86,253,540	\$ (86,253,540)	\$ -
5 HTF State Aid to Municipalities	\$ 56,072,216	\$ (56,072,216)	\$ -		\$ 58,054,337	\$ (58,054,337)	\$ -
6 NC Mobility Fund	\$ 58,000,000	\$ (58,000,000)	\$ -		\$ 58,000,000	\$ (58,000,000)	\$ -
7 Turnpike Authority	\$ 112,000,000	\$ (63,000,000)	\$ -		\$ 112,000,000	\$ (63,000,000)	\$ -
Eliminates \$35m (Garden Parkway) and \$28m (Mid-Currituck) in gap funds.							
8 NEW Strategic Transportation Infrastructure Fund	n/a	\$ 936,430,710	\$ 936,430,710		n/a	\$ 987,090,152	\$ 987,090,152
Changes to Administration will impact new fund.							

Mobility Fund

Sections 4.16, 4.17, and 4.18 repeal the Mobility Fund. The Mobility Fund appropriation is allocated to the new fund, as set forth in G.S. 136-189.11.

Secondary Roads

Section 2.1 changes the distribution of the \$15 of each title fee allocated to the secondary road programs in the Highway Trust Fund to the new fund as set forth in G.S. 136-189.11.

Turnpike Authority and Public Private Partnerships:

Sections 5.1 – 5.8 make changes to the Turnpike Authority and authorize additional public private partnerships. Section 5.1 removes Garden Parkway, Mid-Currituck Bridge, Cape Fear Skyway, and the NC-540 Southeast Extension from the list of Turnpike Projects. Section 5.1 enables DOT to construct an additional five toll projects, based on varying criteria. G.S. 136-176(b2) in Section 4.8 eliminates gap funding in the amount of \$35 million for the Garden Parkway and \$28 million for the Mid-Currituck Bridge beginning in FY 2013-14. The associated \$63 million in gap funds are allocated to the new fund, as set forth in G.S. 136-189.11.

Section 5.2 raises the number of partnership agreements DOT may enter into with a private entity from one to three agreements.

SOURCES OF DATA: Department of Transportation

TECHNICAL CONSIDERATIONS: None